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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,781	07/27/2001	Richard J. Roll	2125.002USU	8798

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/916,781

Applicant(s)

ROLL ET AL.

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 16-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, claims 1-15, in Paper No. 4 is acknowledged.

Claim Objections

Claim 11 is objected to because of the following informalities: In claim 11, line 2, it appears "said second of offer" should be --said second term of offer--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 (regarding lines 6-7; and line 11, "said adjusted requested term of offer"), and in claims 10-15, it is not clear whether the "adjusting" adjusts the original term of offer or the second term of offer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3627

Claims 1-9, 11, 13-15 as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al. '901.

Hager et al. disclose or inherently teach the limitations of the claims including: requesting a term of offer related to items (*see for example paragraph [0032]*), obtaining, by a host provider (i.e., web services system 100,200), the requested term of offer from at least one product/service provider (i.e., store), adjusting an offer (by identifying sales and coupons for items at specific stores/manufacturers; *see paragraphs [0032-0033]*), presenting the offers to a data requestor device (i.e., computer; *see paragraph [0033]*).

Hager et al. lack the specific teaching of use with a single "item".

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to use the system for a single item, in order to provide the user with this option, as is well known in e-commerce.

Re claims 13-15, the "pricing model" is the identification of sales items and coupons in Hager et al.

Claim 10, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al., in view of an obvious design choice.

Hager et al. disclose all the limitations of the claim except the step of adjusting the second term of offer for the item comprising determining if the host provider itself offers the item.

Art Unit: 3627

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the step of adjusting the second term of offer for the item comprise determining if the host provider itself offers the item, as it is obvious for a service company to check its own resources before seeking others to provide the service, in order to maximize profits.

Claim 12, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Hager et al., as applied to claim 1 above, and further in view of Trubey et al. '930.

Hager et al. disclose all the limitations of the claim except varying the second term of offer to include a price margin for the host provider.

Trubey et al. teach that it is common for host sites to receive a "commission or referral fee" (See paragraph [0008]) for helping buyers find products on the Internet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hager et al. to have the second term of offer include a price margin for the host provider, in view of Trubey et al., in order to pay the host provider for its value added service.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3627

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113 .

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.



F. Zeender
Patent Examiner, A.U. 3627
May 30, 2003